

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**RIO REAL ESTATE INVESTMENT
OPPORTUNITIES, LLC, a New Mexico
limited liability company,**

Plaintiff,

v.

Civ. No. 12-758 JAP/ACT

**TESLA MOTORS, INC., a Delaware
corporation,**

Defendant.

**ORDER ADOPTING JOINT STATUS REPORT AND
PROVISIONAL DISCOVERY PLAN WITH CHANGES AND
SETTING CASE MANAGEMENT DEADLINES**

THIS MATTER came before the Court on a Rule 16 scheduling conference held on September 18, 2012. Following a review of the attorneys' Joint Status Report and Provisional Discovery Plan filed on September 7, 2012, and after conferring with counsel, the Court adopts the Joint Status Report and Provisional Discovery Plan modified as follows:

- a) Maximum of twenty-five (25) Interrogatories by Plaintiff to Defendant and fifty (50) Interrogatories by Defendant to Plaintiff;
- b) Maximum of twenty-five (25) Requests for Production by Plaintiff to Defendant and fifty (50) Requests for Production by Defendant to Plaintiff;
- c) Maximum of twenty-five (25) Requests for Admission by Plaintiff to Defendant and fifty (50) Requests for Admission by Defendant to Plaintiff;
- d) Maximum of ten (10) depositions by Plaintiff and ten (10) depositions by Defendant; and
- e) Depositions of parties, Rule 30 (b) (6) designees and experts are limited to seven (7) hours, and depositions of all other witnesses are limited to four (4) hours, unless extended by agreement of the parties.

The following case management deadlines have been set:

- | | | |
|----|---|-----------------------------------|
| a) | Plaintiff's Rule 26 (a)(2) expert disclosure ¹ : | November 19, 2012 |
| b) | Defendant's Rule 26 (a)(2) expert disclosure ¹ : | December 19, 2012 |
| c) | Termination date for discovery: | February 15, 2013 |
| d) | Motions relating to discovery to be filed by: | February 25, 2013 |
| e) | Pretrial motions other than discovery motions (including motions which may require a Daubert hearing) filed by: | April 4, 2013 |
| f) | Pretrial Order: Plaintiff to Defendant by: | May 9, 2013 |
| | Defendant to Court by: | May 20, 2013 |
| g) | Telephone Rule 16 Discovery Status Conference ² : | December 17, 2012
At 2:30 p.m. |

Any extension of the case management deadlines must be approved by the Court. Any requests for additional discovery must be submitted to the Court by motion prior to the expiration of the discovery deadline.

Plaintiff will have until October 19, 2012, to add additional parties or to amend pleadings and Defendant will have until November 19, 2012, to add additional parties or to amend pleadings.

A settlement conference has been scheduled for **Thursday, March 7, 2013, at 9:30 a.m.**

¹ All expert witnesses must be disclosed by this date, but only those who are retained or specifically employed to provide expert testimony must submit an expert report. See Fed. R. Civ. P. 26(a)(2)(B); *Musser v. Gentiva Health Servs.*, 356 F.3d 751 (7th Cir. 2004); *Farris v. Intel Corp.*, 493 F.Supp. 2d 1174 (D.N.M. 2007), and *Blodgett v. United States*, 2008 WL 1944011 (D. Utah). Treating physicians testifying as to causation and diagnosis may provide expert testimony under Rule 702 of the Federal Rules of Evidence without providing a report and the other disclosures required under Rule 26, providing they limit "the scope of their opinion testimony to conclusions drawn from their own examination and treatment of the patient." *Jacks v. Regis Corp.*, Civ. No. 99-1391, Memorandum Opinion and Order at 2 (D.N.M. April 2001) (Smith, M.J.); *Sturgeon v. ABF Freight Systems, Inc.*, Civ. No. 02-1317, Memorandum Opinion and Order at 2-4 (D.N.M., Jan. 2004) (Browning, J.O.). The parties must have their expert(s) ready to be deposed at the time they identify them and provide their reports.

² The parties are to call chambers on the "meet-me-conference line" at (505) 348-2688.

IT IS SO ORDERED.


ALAN C. TORGERSON
United States Magistrate Judge